



**DEPARTMENT OF TRANSPORTATION**

**[4910-EX-P]**

**Federal Motor Carrier Safety Administration**

**[Docket No. FMCSA-2018-0235]**

**Hours of Service of Drivers: Wolfe House Movers, LLC and Wolfe House Movers of Indiana, LLC; Application for Exemption**

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Notice of application for exemption; request for comments.

**SUMMARY:** FMCSA announces that it has received a joint application from Wolfe House Movers, LLC and Wolfe House Movers of Indiana, LLC (Wolfe) requesting an exemption from the hours-of-service (HOS) regulations for drivers operating commercial motor vehicles (CMV) that transport steel beams and dollies to and from various job sites for lifting and moving buildings. Wolfe requests an exemption to use the 70-hour/8-day rule for its CMV operations although the company does not operate CMVs 7 days a week. FMCSA requests public comment on this application for exemption.

**DATES:** Comments must be received on or before [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER.]

**ADDRESSES:** You may submit comments identified by Federal Docket Management System Number FMCSA-2018-0235 by any of the following methods:

- Federal eRulemaking Portal: [www.regulations.gov](http://www.regulations.gov). See the Public Participation and Request for Comments section below for further information.
- Mail: Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building, Ground Floor, Room W12-140, Washington, DC 20590-0001.

- Hand Delivery or Courier: West Building, Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., between 9 a.m. and 5 p.m. E.T., Monday through Friday, except Federal holidays.
- Fax: 1-202-493-2251.

Each submission must include the Agency name and the docket number for this notice. Note that DOT posts all comments received without change to [www.regulations.gov](http://www.regulations.gov), including any personal information included in a comment. Please see the Privacy Act heading below.

Docket: For access to the docket to read background documents or comments, go to [www.regulations.gov](http://www.regulations.gov) at any time or visit Room W12-140 on the ground level of the West Building, 1200 New Jersey Avenue, SE, Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. The on-line FDMS is available 24 hours each day, 365 days each year.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to [www.regulations.gov](http://www.regulations.gov), as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at [www.dot.gov/privacy](http://www.dot.gov/privacy).

**FOR FURTHER INFORMATION CONTACT:** For information concerning this notice, please contact Ms. Pearlie Robinson, FMCSA Driver and Carrier Operations Division; Telephone: (202) 366-4225; E-mail: [MCPSD@dot.gov](mailto:MCPSD@dot.gov). If you have questions on viewing or submitting material to the docket, contact Docket Services, telephone (202) 366-9826.

## **SUPPLEMENTARY INFORMATION:**

### **I. Public Participation and Request for Comments**

FMCSA encourages you to participate by submitting comments and related materials.

#### Submitting Comments

If you submit a comment, please include the docket number for this notice (FMCSA-2018-0235), indicate the specific section of this document to which the comment applies, and provide a reason for suggestions or recommendations. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an e-mail address, or a phone number in the body of your document so the Agency can contact you if it has questions regarding your submission.

To submit your comment online, go to [www.regulations.gov](http://www.regulations.gov) and put the docket number, "FMCSA-2018-0235" in the "Keyword" box, and click "Search." When the new screen appears, click on "Comment Now!" button and type your comment into the text box in the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope. FMCSA will consider all comments and material received during the comment period and may grant or not grant this application based on your comments.

## II. Legal Basis

FMCSA has authority under 49 U.S.C. 31136(e) and 31315 to grant exemptions from certain Federal Motor Carrier Safety Regulations (FMCSRs). FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted. The Agency must also provide an opportunity for public comment on the request.

The Agency reviews safety analyses and public comments submitted, and determines whether granting the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved by the current regulation (49 CFR 381.305). The decision of the Agency must be published in the **Federal Register** (49 CFR 381.315(b)) with the reasons for denying or granting the application and, if granted, the name of the person or class of persons receiving the exemption, and the regulatory provision from which the exemption is granted. The notice must also specify the effective period (up to 5 years) and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.300(b)).

## III. Request for Exemption

Wolfe House Movers, LLC (USDOT 1279267), and Wolfe House Movers of Indiana, LLC (USDOT 1679025) (Wolfe) seek an exemption from the HOS requirements of 49 CFR 395.3(b)(1) which prohibits a motor carrier from permitting or requiring a driver to drive a property-carrying CMV after the driver has been on duty 60 hours within a period of 7 consecutive days if the employing motor carrier does not operate CMVs every day of the week. Wolfe does not operate CMVs every day of the week and is

prohibited from using the 70-hour/8-day rule in 49 CFR 395.3(b)(2) for its business operations.

According to Wolfe, its primary line of business is lifting and moving buildings. Drivers employed by Wolfe transport steel beams and dollies to and from various jobsites where work is performed. Wolfe advises that its owners believe that Sunday is a day of rest and worship and refuse any business opportunities that would require Sunday work.

Because Wolfe does not conduct business on Sunday, its commercial business operations are subject to the 60-hours-in-7-day rule set forth in 49 C.F.R. 395.3(b)(1). Due to the geographical spread of its operations, Wolfe asserts that the 60 hour limitation is a substantial burden. Wolfe explained in its application that the company attempts to schedule work so that all crews can be at their home terminal before the 60<sup>th</sup> on-duty hour of the week. However, weather, traffic, or jobsite conditions sometimes delay completion of projects causing crews to be stranded one or two hours' drive from the home terminal. When delays occur relief drivers are sent in non-commercial vehicles to pick up stranded drivers so that the drivers who have run out of hours can drive back to the home terminal using the non-commercial vehicles while the relief drivers return the CMVs to the terminal.

Wolfe reports that it is a small company and it is difficult to have relief drivers available on short notice and it is unproductive and costly for the company. Wolfe asserts that the stress and pressure associated with approaching the 60-hour cut-off is likely to have a detrimental effect on the safety performance of even well-trained and well-qualified drivers.

According to Wolfe, allowing it to use the 70-hour/8-day HOS ruleset for all drivers not operating CMVs on Sundays would provide the following significant safety benefits:

- The need for relief drivers would be significantly reduced or completely eliminated. This would result in fewer on-road miles driven (by eliminating the need for a relief driver to drive up to 100 miles out to pick up the CMV and for the regular driver to drive the non-CMV back the same 100 miles). This would also mean that the CMV would continue to be driven by the driver most familiar with it, rather than a part-time driver.
- Drivers would be less stressed, knowing that they have sufficient time to complete their weekly schedule even if they are delayed by heavy traffic, weather conditions, etc.

A copy of Wolfe's application for exemption is available for review in the docket for this notice.

**Issued on:** October 12, 2018.

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Larry W. Minor,  
Associate Administrator for Policy.

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